

REMARKS

This amendment is responsive to the Office Action dated January 21, 2004. Applicant has amended claims 1, 10, 11 and 12 and has canceled claim 15. Claims 1-14 and 16-28 are pending.

Drawing Correction

The draftsperson submitted a notice that the numbering of views was not consecutive. In particular, the drawing intended as FIG. 4 was not designated as having any figure number. Applicant submits herewith a corrected FIG. 4, which includes the designation "FIG. 4." The figures are now consecutively numbered as FIG. 1, FIG. 2, FIG. 3 and FIG. 4.

Claim Objection

The Examiner objected to an informality in claim 11. Claim 11 has been amended accordingly.

Claim Rejection Under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-4, 7, 8, 12, 14, 17-25, 27 and 28 under 35 U.S.C. § 102(e) as being anticipated by Lau et al. (U.S. Pat. No. 6,612,979 B2).

Claims 1-11 and 27

Applicant has amended independent claim 1 to recite that the bag-like device comprises a netting having at least one mesh aperture, and has amended claim 10 to be consistent with amended claim 1. Applicant submits that claims 1-11 and 27 are in condition for allowance. In the Office Action, the Examiner noted that none of the prior art, alone or in combination, teaches or suggests a bag-like device comprising netting defining mesh apertures.

Claims 12-18

Applicant has amended claim 12 to include the limitations of claim 15, and has cancelled claim 15. Claim 12, as amended, recites a bag-like device comprising a pliable netting. Applicant submits that claims 12-14 and 16-18 are in condition for allowance. In the Office

Action, the Examiner objected to claim 15, but stated that claim 15 would be allowable if written in independent form. The Examiner further stated that none of the prior art, alone or in combination, teaches or suggests a bag-like device comprising a pliable netting.

Claims 21-26 and 28

Applicant respectfully traverses the rejection with respect to claims 21-25 and 28. Lau et al. fail to disclose each and every feature of the claimed invention, as required by 35 U.S.C. § 102(e), and provide no teaching that would have suggested the desirability of modification to include such features.

For example, Lau et al. fail to teach or suggest manipulating the organ with the manipulating device and the bag-like device, as recited in independent claim 21. On the contrary, Lau et al. plainly describe that the manipulating device and the bag-like device do not manipulate the organ: "After the harness 4 is advanced into place, the suction is released and the delivery system 36 is released from the harness 4 and heart 2." Col. 19, lines 10-12; see also col. 19, lines 40-43 (when placement of the harness is completed, the delivery device is withdrawn from the patient). Furthermore, Lau et al. do not suggest any motivation for manipulating the organ with the manipulating device and the bag-like device. On the contrary, the figures in Lau et al. specifically show that the delivery device is disengaged and removed after the harness is deployed, and Lau et al. suggest no medical benefit from keeping the delivery device engaged.

Lau et al. also fail to teach or suggest lifting, supporting, twisting or moving the organ with the manipulating device and the bag-like device, as recited in claim 22. Lau et al. mention using the suction cup of the delivery device to lift the heart, col. 18, lines 66-67, but do not disclose or suggest using both the suction cup and the harness to do so, as recited in claim 22. Indeed, the Lau harness is not configured for such manipulation, but rather provides "elastic compressive reinforcement" to the heart. Col. 12, line 25.

The Examiner found that claim 26 included allowable subject matter, but objected to claim 26 as dependent upon a rejected base claim. Claim 21 is allowable, and therefore claim 26, which depends on claim 21, is also allowable.

For at least these reasons, Applicant submits that Lau et al. fail to anticipate independent claim 21 or claims dependent thereon, and requests withdrawal of the rejections.

Allowable Subject Matter

The Examiner has identified allowable subject matter. As noted above, some of the amendments recite subject matter that the Examiner has determined is allowable.

CONCLUSION

Claims 1-14 and 16-28 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Applicant respectfully reminds the Examiner of Information Disclosure Statements submitted on January 29, 2004 and February 3, 2004, and asks that the Examiner acknowledge consideration of the Information Disclosure Statements in the next office communication.

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AMENDMENT TO THE DRAWINGS

Please amend the drawings by replacing the unnumbered figure with drawing marked "FIG. 4" on the appended replacement sheet. Although referred to in the specification as "FIG. 4," the original drawing was not designated with any figure number. The corrected FIG. 4 includes the designation "FIG. 4."